

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:12-cv-00360-MR-DLH**

RALPH ONEIL STARNES, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	<u>O R D E R</u>
)	
)	
A.O. SMITH CORPORATION, et al.,)	
)	
Defendants.)	
)	

THIS MATTER is before the Court on the Defendant Invensys Systems, Inc.'s Motion to Dismiss [Doc. 133] and Plaintiffs' Motion for Leave to File Amended Complaint [Doc. 175].

Defendant Invensys Systems, Inc. has moved to dismiss the Plaintiffs' Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to plead their allegations with sufficiently particularity. [Doc. 133]. In response to the Defendant's Motion, the Plaintiffs have moved for leave to file an amended complaint. [Doc. 175]. Defendant OakFabco, Inc. opposes the Plaintiffs' motion to amend. [Doc. 177].

Under Rule 15 of the Federal Rules of Civil Procedure, the Plaintiffs have twenty-one (21) days from service of a motion to dismiss to amend their Complaint as a matter of course. Fed. R. Civ. P. 15(a)(1)(B). With respect to the Plaintiffs' claims asserted against Defendants who have already answered, the Plaintiffs are required to seek either consent of the opposing parties or leave of Court to file an Amended Complaint, thereby necessitating the present motion. See Fed. R. Civ. P. 15(a)(2).

The Court is mindful that Rule 15 embodies "a relatively liberal amendment policy." See Cook v. Howard, 484 F. App'x 805, 814 (4th Cir. 2012). Thus, absent a showing of prejudice, bad faith, or undue delay, leave to amend should be, as stated by the Rule, "freely given." Fed. R. Civ. P. 15(a)(2); Foman v. Davis, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962).

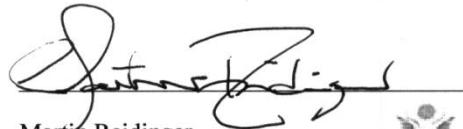
Having reviewed the Plaintiffs' Amended Complaint, the Court concludes that the Defendants would not suffer any undue prejudice by the filing of the Amended Complaint. Nor has it been shown that the Plaintiffs' filing was untimely or in bad faith. For these reasons, the Court will grant the Plaintiffs' Motion to Amend.

Accordingly, **IT IS, THEREFORE ORDERED** that Defendant Invensys Systems, Inc.'s Motion to Dismiss [Doc. 133] is **DENIED AS MOOT.**

IT IS FURTHER ORDERED that the Plaintiffs' Motion for Leave to File Amended Complaint [Doc. 175] is **GRANTED**. The Plaintiffs shall file their Amended Complaint within fourteen (14) days of the entry of this Order.

IT IS SO ORDERED.

Signed: April 12, 2013



Martin Reidinger
United States District Judge

